

## Article - Health - General

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§19-344.

(a) To carry out the policy set forth in § 19-343 of this subtitle, the following procedures are required for all services provided to a resident of a facility.

(b) (1) A facility may not require or solicit, as a condition of admission into the facility, the signature of another person, other than the applicant, on the application or contract for admission to the facility, unless:

(i) The applicant is adjudicated disabled under Title 13, Subtitle 7 of the Estates and Trusts Article; or

(ii) 1. The applicant's physician determines that the applicant is incapable of understanding or exercising the applicant's rights and responsibilities; and

2. The applicant's physician records, in the applicant's facility record, the specific reasons for the determination.

(2) If, in addition to the signature of an applicant, a facility requires the signature of another person on the application or contract for admission to the facility in accordance with the provisions of paragraph (1) of this subsection, the facility shall provide a written statement to be included in the document of the rights, duties, and liabilities of the signer of the document.

(3) (i) A facility may request an applicant for whom a second signature cannot be required or solicited under paragraph (1) of this subsection to execute valid durable powers of attorney designating an attorney in fact to make financial, medical, funeral, and burial decisions in the event of the applicant's disability.

(ii) A facility may not require the execution of a durable power of attorney as a condition or requirement of admission to the facility.

(c) (1) In this subsection, "agent" means a person who manages, uses, or controls the funds or assets that legally may be used to pay the applicant's or resident's share of costs or other charges for the facility's services.

(2) Except as provided by the Department, a facility may not charge an applicant or resident who is a medical assistance beneficiary, or the applicant's or

resident's agent, any amount in addition to the amounts determined by the medical assistance program for services that are covered by medical assistance.

(3) Unless otherwise agreed, the financial obligation of the applicant's or resident's agent is limited to the amount of the applicant's or resident's funds that are considered available to the agent by the medical assistance program.

(4) (i) A facility may require an applicant, a resident, or the agent of an applicant or resident to agree to distribute any funds, including income or assets of the applicant or resident, which the medical assistance program has determined to be available to pay for the cost of the applicant's or resident's care, to the facility, promptly when due, for the cost of the applicant's or resident's care.

(ii) For the purpose of this section, funds of the applicant or resident include funds of the applicant or resident that are under the use, ownership, management, or control of the agent.

(iii) A resident or agent of the resident who has not paid a current obligation for the resident's care may apply to the medical assistance program for a determination of the funds available to pay for the cost of the resident's care.

(iv) If a request for a determination is made under subparagraph (iii) of this paragraph, the medical assistance program shall make the determination.

(v) If a resident or agent of a resident who has not paid a current obligation for the resident's care fails to request a determination under subparagraph (iii) of this paragraph, the facility may, without requesting the appointment of a guardian, petition the appropriate circuit court for an order or injunction directing the resident or agent of the resident to request and pursue the determination with due diligence or granting other appropriate relief to enforce the obligations under this section.

(vi) If a resident or agent of the resident fails to pay for the cost of the resident's care from funds that the medical assistance program has determined to be available to pay for that care, the facility may, without requesting the appointment of a guardian, petition the appropriate circuit court for an order directing the resident or agent of the resident to pay the facility from the funds determined by the medical assistance program to be available.

(5) (i) An applicant, a resident, or the agent of an applicant or resident shall seek and pursue with due diligence, on behalf of the applicant or resident, all assistance from the medical assistance program which may be available to the applicant or resident.

(ii) The facility shall cooperate with and assist the agent in seeking assistance from the medical assistance program on behalf of the applicant or resident.

(iii) If a resident or the agent of a resident fails to seek assistance from the medical assistance program or to cooperate fully in the eligibility determination process, a facility providing care to the resident may, without requesting the appointment of a guardian, petition the appropriate circuit court for an order or injunction requiring the resident or agent of the resident to seek assistance from the medical assistance program or to cooperate in the eligibility determination process with due diligence or granting other appropriate relief to enforce the obligations under this section.

(6) (i) Any agent who willfully or with gross negligence violates the requirements of paragraph (4) of this subsection regarding the distribution of the applicant's or resident's funds is subject to a civil penalty not less than the amount of funds subject to the violation.

(ii) Any agent who willfully or with gross negligence violates the requirements of paragraph (5) of this subsection regarding an application for medical assistance by or on behalf of an applicant or resident is subject to a civil penalty not exceeding \$10,000.

(iii) The Attorney General is responsible for the enforcement and prosecution of violations of the provisions of paragraphs (4) and (5) of this subsection.

(7) Nothing in this subsection may be construed to prohibit any person from knowingly and voluntarily agreeing to guarantee payment for the cost of an applicant's care.

(d) Each facility shall:

(1) On or before admission of an individual, give the individual a written statement of:

(i) The services of the facility, including each service that is required to be offered on an as-needed basis; and

(ii) Related charges, including any charges for services that are not covered by Medicare, Medicaid, or the basic rate of the facility; and

(2) Keep a written receipt for the statement that is signed by the individual.

(e) Unless it is medically inadvisable, the resident physician of a facility or attending physician of its resident shall give the resident information about the diagnosis, treatment, and prognosis of the resident that is complete and current and is stated in language that the resident reasonably can be expected to understand.

(f) (1) A resident of a facility:

- (i) Shall participate in the planning of the medical treatment;
- (ii) May refuse medication or treatment; and
- (iii) May know the medical consequences of these actions.

(2) The facility shall:

(i) Have the informed consent of a resident before the resident participates in any experimental research; and

(ii) Keep the resident's written acknowledgment of that consent.

(3) The resident shall receive information about the relationship of the facility to other health care institutions if the information relates to the care of the resident.

(4) The resident shall receive reasonable continuity of care, including information as to the availability of physicians and times for medical appointments.

(g) (1) Any case discussion, consultation, examination, or treatment of a resident of a facility:

(i) Is confidential;

(ii) Is to be done discreetly; and

(iii) Is not open to an individual who is not involved directly in the care of the resident unless the resident permits the individual to be present.

(2) Except as necessary for the transfer of a resident from the facility to another health care institution or as required by law or a third-party payment

contract, the personal and medical records of a resident are confidential and may not be released without the consent of the resident to any individual who:

(i) Is not associated with the facility; or

(ii) Is associated with the facility, but does not have a demonstrated need for the information.

(h) If it is feasible to do so and not medically contraindicated, spouses or domestic partners who are both residents of the facility shall be given the opportunity to share a room.

(i) A resident of a facility alone or with other individuals is entitled to present any grievance or recommend a change in a policy or service to the staff or administrator of the facility, the Department of Aging, or any other person, without fear of reprisal, restraint, interference, coercion, or discrimination.

(j) (1) Each facility shall place at the bedside of each resident the name, address, and telephone number of a physician who is responsible for the resident's care.

(2) A resident shall have access at any reasonable time to a telephone where the resident may speak privately.

(3) A resident shall have access to writing instruments, stationery, and postage.

(4) The correspondence of a resident shall be sent to the addressee without delay and without being opened.

(5) Every patient and resident may associate and communicate privately and without restriction with persons and groups of his choice on his own or their initiative at any reasonable hour.

(k) (1) Each married resident of a facility shall have privacy during a visit by the spouse.

(2) Each resident of a facility who has a domestic partner shall have privacy during a visit by the other domestic partner.

(l) To a reasonable extent, a resident of a facility shall have the right to possess and use clothing and other personal effects and to have security for those effects.

(m) A resident of a facility may not be assigned to do any work for the facility without personal consent and without written approval of the attending physician of the resident.

(n) A resident of a facility shall receive a reasonable response from an administrator or staff to a personal request of the resident.

(o) (1) A resident of a facility shall enjoy privacy in the room of the resident.

(2) Unless the staff member knows that the resident is asleep, the member shall knock on the door before the member enters the room of the resident.

(p) The administrator of a facility is responsible for carrying out this section.

(q) (1) A resident of a facility or the next of kin or domestic partner or guardian of the person of a resident may file a complaint about an alleged violation of this section.

(2) The complaint may be filed with the Department of Aging or the Department.

(3) The Secretary of Aging shall:

(i) Investigate the complaint; and

(ii) After the investigation, report the findings to the complainant.

(4) After receipt of the report, the complainant shall be given an opportunity for a hearing before the Department in accordance with the rules and regulations that the Department adopts.

(5) The Secretary of Aging or the Secretary's designee may request a hearing and act as a representative of the resident at the hearing under paragraph (4) of this subsection when:

(i) There is no guardian able and available or family member able, willing, and available; and

(ii) The resident consents.

(6) The Secretary of Aging or the Secretary's designee may, in any hearing under paragraph (4) of this subsection to which it is not a party under paragraph (5) of this subsection, take part as an interested party.

(r) If a resident is adjudicated a disabled person, is found to be medically incompetent by the attending physician of the resident, or is unable to communicate with others, the rights of the resident may be exercised by:

- (1) The next of kin of the resident;
- (2) The guardian of the person of the resident;
- (3) The sponsoring agency of the resident; or

(4) Unless the facility is the representative payee, the representative payee that the Social Security Administration designates for the resident.

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